

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Colin Lodewick	Team: Squad #08	CCRB Case #: 202303867	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/29/2022 7:53 PM, NA, _/_/2022 12:00 AM	Location of Incident: Front of 201 West 145th Street (Mega Building Supply store)	18 Mo. SOL 3/29/2024	Precinct: 32		
Date/Time CV Reported Wed, 05/03/2023 5:24 PM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 05/03/2023 5:24 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Denis Cekic	11429	953738	032 PCT
2. PO Edgar Rusi	06914	961214	NARCBMN
3. SGT Daniel Travis	04624	937651	MN SU CRT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Charlie Ruizreyes	25922	964266	032 PCT
2. PO Darren Jean	17691	967931	032 PCT
3. DT3 Daniel Martinez	07269	947218	048 DET

Officer(s)	Allegation	Investigator Recommendation
A. PO Denis Cekic	Abuse: On an unknown date at an unknown location, Police Officer Denis Cekic stopped the vehicle in which § 87(2)(b) was an occupant.	
B. PO Denis Cekic	Abuse: On an unknown date at an unknown location, Police Officer Denis Cekic drew his gun.	
C. PO Denis Cekic	Force: On an unknown date at an unknown location, Police Officer Denis Cekic pointed his gun at § 87(2)(b)	
D. PO Edgar Rusi	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi stopped an individual.	
E. PO Edgar Rusi	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi frisked an individual.	
F. PO Edgar Rusi	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi searched an individual.	
G. PO Denis Cekic	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Denis Cekic threatened to damage § 87(2)(b) property.	
H. PO Denis Cekic	Discourtesy: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Denis Cekic spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.PO Denis Cekic	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Denis Cekic threatened § 87(2)(b) with the use of force.	
J.SGT Daniel Travis	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Sergeant Daniel Travis searched the vehicle in which § 87(2)(b) was an occupant.	
K.PO Edgar Rusi	Abuse: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi failed to provide an individual with a business card.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On May 3, 2023, § 87(2)(b) of the Legal Aid Society filed this complaint with the CCRB via email on behalf of § 87(2)(b) regarding an incident that occurred in September 2022.

On September 29, 2022, at approximately 7:53 PM, § 87(2)(b) was sitting in his vehicle with an unidentified friend when Police Officer Denis Cekic and Police Officer Darren Jean of the 32nd Precinct and Police Officer Edgar Rusi, now assigned to Narcotics Bureau Manhattan North but formerly of the 32nd Precinct, pulled up behind them. The officers exited their vehicle, with PO Cekic and PO Rusi approaching the front driver's side door, where § 87(2)(b) friend was sitting, and PO Jean approaching the front passenger side door, where § 87(2)(b) was sitting. § 87(2)(b) recognized PO Cekic from an incident earlier in the year at an unknown date and time when he allegedly stopped § 87(2)(b) vehicle, drew his gun, and pointed it at him (**Allegations A-C: Abuse of Authority and Force:** § 87(2)(g) § 87(2)(b) was not arrested during this incident.

On September 29, 2022, PO Rusi then stopped § 87(2)(b) friend and asked for his ID (**Allegation D: Abuse of Authority,** § 87(2)(g) § 87(2)(b) friend did not provide his ID to PO Rusi. PO Rusi then asked § 87(2)(b) friend to exit the vehicle and frisked him (**Allegation E: Abuse of Authority,** § 87(2)(g) PO Rusi allegedly searched § 87(2)(b) friend (**Allegation F: Abuse of Authority,** § 87(2)(g) PO Cekic walked to the front passenger side of the vehicle, where he ordered § 87(2)(b) to exit the vehicle. PO Cekic asked § 87(2)(b) for his phone, to which he responded that he needed to call his wife so she could pick up his seven-year-old son, who was in the vicinity. PO Cekic told § 87(2)(b) "Give me the phone or I'm going to break it, give me the fucking phone before I break it" (**Allegations G and H: Abuse of Authority and Discourtesy,** § 87(2)(g) Further, PO Cekic allegedly told § 87(2)(b) "I'll break your hand" (**Allegation I: Abuse of Authority,** § 87(2)(g) PO Cekic then handcuffed § 87(2)(b) and detained him in a police vehicle. Sergeant Daniel Travis of Patrol Bureau Manhattan North arrived on the scene and searched § 87(2)(b) vehicle (**Allegation J: Abuse of Authority,** § 87(2)(g) All officers then left the scene. PO Rusi did not offer § 87(2)(b) friend a business card before leaving the scene (**Allegation K: Abuse of Authority,** § 87(2)(g) § 87(2)(g), § 87(4-b) § 87(2)(b)

The investigation obtained body-worn camera (BWC) footage from the incident from PO Cekic, PO Rusi, and Sgt. Travis. The footage is linked in IA #37 and summarized in IA #40 (**Board Review 05, 06**).

Findings and Recommendations

Allegation (A) Abuse of Authority: On an unknown date at an unknown location, Police Officer Denis Cekic stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: On an unknown date at an unknown location, Police Officer Denis Cekic drew his gun.

Allegation (C) Force: On an unknown date at an unknown location, Police Officer Denis Cekic pointed his gun at § 87(2)(b)

On May 9, 2023, § 87(2)(b) testified to the CCRB that when PO Cekic approached his vehicle on September 29, 2022, he recognized him from an incident several months earlier that occurred in May or June of 2022 (**Board Review 01**). He provided a brief statement about that incident. During that incident, § 87(2)(b) his wife, and wife's friend exited a store and entered his vehicle. PO

Cekic pulled in front of § 87(2)(b) vehicle, exited his police vehicle, pulled out his gun, and told § 87(2)(b) to get out of his vehicle. PO Cekic pointed his gun at § 87(2)(b) from approximately six feet away while § 87(2)(b) was in the driver's seat. § 87(2)(b) was released and not arrested during this incident.

The investigation attempted to reach § 87(2)(b) following his initial CCRB interview for further details about this incident and additional witness information but was unsuccessful.

Without a specific incident date or location, the investigation was unable to request documents for this incident.

On July 7, 2023, PO Cekic testified to the CCRB that he did not remember interacting with § 87(2)(b) during a vehicle stop at an unknown date and time in 2022 (**Board Review 02**). PO Cekic denied drawing his firearm and pointing it at § 87(2)(b) during a vehicle stop.

§ 87(2)(g)

Allegation (D) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi stopped § 87(2)(b)

Allegation (E) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi frisked § 87(2)(b)

Allegation (F) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi searched § 87(2)(b)

It is undisputed that on September 29, 2022, at approximately 7:53 PM, PO Cekic, PO Rusi, and PO Jean approached § 87(2)(b) vehicle in the vicinity of 201 West 145th Street in Manhattan and engaged with § 87(2)(b) and his friend.

§ 87(2)(b) testified to the CCRB that PO Cekic and PO Rusi told his friend to exit the vehicle when they approached the front driver's side door (**Board Review 01**). PO Rusi then asked for § 87(2)(b) friend's license, which he refused to give. PO Rusi then opened the driver's side door and pulled § 87(2)(b) friend out of the vehicle by his arm. PO Rusi then placed § 87(2)(b) friend against the vehicle and searched him.

The investigation was unable to identify § 87(2)(b) friend and was therefore unable to reach him for a statement.

PO Rusi testified to the CCRB on July 19, 2023, that on September 29, 2022, he was on patrol with PO Cekic and PO Jean when PO Jean recognized § 87(2)(b) vehicle, a royal blue BMW, from a wanted poster (**Board Review 03**). PO Rusi knew general details about the case, including that § 87(2)(b) was wanted for an assault. The officers decided to conduct a vehicle stop and parked behind § 87(2)(b) vehicle, which was double-parked on 145th Street. PO Rusi approached the driver's side door of § 87(2)(b) vehicle. As operator, it was his responsibility to make the first contact with the occupants. As PO Rusi approached the driver's side, he saw that § 87(2)(b) friend had something in his hands under the steering wheel. PO Rusi could not see what the object was because it was dark. PO Rusi asked § 87(2)(b) friend what was going on, if he had ID, and

if he could step out of the car so that he could explain the situation. § 87(2)(b) friend was not free to leave during this encounter because upon approaching the vehicle, the officers did not know which one of the civilians was § 87(2)(b) § 87(2)(b) friend ultimately complied with the request to exit the vehicle. PO Rusi then frisked § 87(2)(b) friend. PO Rusi did not recall seeing if § 87(2)(b) friend took anything out of the vehicle with him. He did not recall seeing any bulges or outlines on § 87(2)(b) friend's person to indicate if he had weapons on him. PO Rusi denied searching § 87(2)(b) friend.

PO Rusi's BWC footage captures the entirety of his interaction with § 87(2)(b) friend (**Board Review 05**). At the 1m11s timestamp of the recording, PO Rusi asks § 87(2)(b) friend for his ID. PO Rusi asks for his ID a second time at the 1m18s timestamp. § 87(2)(b) friend does not immediately comply with PO Rusi's request for his ID. PO Rusi then asks § 87(2)(b) friend to exit the vehicle at the 1m26s timestamp. § 87(2)(b) friend exits the vehicle and PO Rusi again asks for his ID. At the 1m40s timestamp of the recording, PO Rusi turns § 87(2)(b) friend around, places him against the vehicle, and frisks him by patting down his pants pockets and the sides of his torso.

There was an active warrant and active probable cause to arrest I-Card for § 87(2)(b) on the date of the incident (**Board Review 07**).

NYPD Patrol Guide Procedure No. 212-11 establishes that officers may frisk § 87(2)(b) if the officer has reasonable suspicion that the individual is armed and dangerous (**Board Review 08**).

People v. De Bour, 20 N.Y.2d 210 (1976), permits uniformed members of service to stop, frisk, and search individuals for whom they have a reasonable suspicion have committed, are committing, or are about to commit a felony or misdemeanor (**Board Review 09**).

§ 87(2)(b) and PO Rusi's testimonies are generally consistent with regards to the beginning of the incident. § 87(2)(g) there was an active warrant for § 87(2)(b) arrest on the date of the incident. § 87(2)(g)

§ 87(2)(b) friend refused to provide his ID to PO Rusi. § 87(2)(g)

PO Rusi testified that he frisked § 87(2)(b) friend after seeing him manipulate an object that he could not see while he was sitting in the front driver's seat of § 87(2)(b) vehicle and that he did not remember seeing anything else that indicated that § 87(2)(b) friend may have been armed. BWC footage shows that § 87(2)(b) friend was not holding anything when he exited the vehicle. § 87(2)(g)

While § 87(2)(b) and PO Rusi's testimonies are not consistent with regards to PO Rusi searching § 87(2)(b) friend, PO Rusi's BWC footage shows that he does not search § 87(2)(b) friend. § 87(2)(g)

Allegation (G) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Denis Cekic threatened to damage § 87(2)(b) property.

Allegation (H) Discourtesy: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Denis Cekic spoke discourteously to § 87(2)(b)

Allegation (I) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Denis Cekic threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified to the CCRB that PO Cekic approached him at the front passenger side door after first approaching the driver's side door, opened the door, and told him to exit the vehicle (**Board Review 01**). PO Cekic pulled § 87(2)(b) out of the vehicle before § 87(2)(b) could exit the vehicle himself. PO Cekic then placed § 87(2)(b) against the vehicle. PO Cekic asked § 87(2)(b) for his phone, which he held in his right hand. § 87(2)(b) told PO Cekic that he wanted to call his wife so she could come retrieve his seven-year-old son, who was in the vicinity. PO Cekic did not allow § 87(2)(b) to place the phone call. PO Cekic told § 87(2)(b) "Give me your fucking phone." § 87(2)(b) still did not give PO Cekic his phone. PO Cekic whispered to § 87(2)(b) "I'll break your fucking hand." PO Cekic then twisted § 87(2)(b) left arm behind his back, took his phone from him, and slammed it on top of the vehicle.

PO Cekic testified to the CCRB that after he approached § 87(2)(b) on his side of the vehicle, he told him to turn around and place his hands on the roof (**Board Review 02**). § 87(2)(b) had a cellphone in his hands and PO Cekic told him to either put it on the roof or in his pocket. § 87(2)(b) continued to hold his cellphone while PO Cekic rear-handcuffed him. PO Cekic tried to grab § 87(2)(b) cellphone. § 87(2)(b) asked PO Cekic for permission to call his seven-year-old son. PO Cekic allowed § 87(2)(b) to call to his son while he was still handcuffed. § 87(2)(b) called someone on his phone. § 87(2)(b) asked the person to bring his son to the scene. PO Cekic told § 87(2)(b) not to have his son come to the scene where he would see him handcuffed. § 87(2)(b) tried to make another phone call. PO Cekic did not know who § 87(2)(b) tried to call. PO Cekic told § 87(2)(b) to give him his phone and § 87(2)(b) refused. PO Cekic took § 87(2)(b) phone out of his hands and used the word "fucking," while doing so. PO Cekic used the profanity out of frustration. PO Cekic also threatened to break § 87(2)(b) phone because of the way § 87(2)(b) was "tensing," while holding the phone. PO Cekic denied telling § 87(2)(b) that he would "break his fucking hand," during the incident. PO Cekic took § 87(2)(b) phone.

PO Cekic's BWC footage is generally consistent with his testimony and captures the entirety of his interaction with § 87(2)(b) (**Board Review 05**). § 87(2)(b) asks PO Cekic if he can call his wife to have her pick up his seven-year-old son at the 3m20s timestamp of the recording. § 87(2)(b) calls a friend who is watching his son at the 3m55s timestamp of the recording. § 87(2)(b) asks to place another call at the 4m25s timestamp of the recording. PO Cekic tells § 87(2)(b) "Give me the phone or I'm going to break it, give me the fucking phone before I break it," immediately after. PO Cekic then takes § 87(2)(b) phone and repeats: "Give me the fucking phone before I break it," at the 4m34s timestamp of the recording.

NYPD Administrative Guide Procedure No. 304-06 prohibits uniformed members of service from engaging in conduct prejudicial to good order, efficiency, and discipline of the Department (**Board Review 10**).

NYPD Disciplinary Court Case No. 2015-15012 found that there are certain situations where profane remarks made during a stressful or chaotic situation would not constitute misconduct (**Board Review 11**).

It is undisputed that PO Cekic threatened to break § 87(2)(b) cellphone during the incident and used profanity while doing so, § 87(2)(g)

While PO Cekic testified that he used the word “fucking,” while taking § 87(2)(b) phone out of frustration, § 87(2)(g)

PO Cekic and § 87(2)(b) testimonies are not consistent regarding PO Cekic threatening to break § 87(2)(b) hand, § 87(2)(g)

Allegation (J) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Sergeant Daniel Travis searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that Sgt. Travis searched § 87(2)(b) vehicle on September 29, 2022.

Sgt. Travis testified to the CCRB on June 21, 2023, that on September 29, 2022, he arrived on the scene at 201 W 145th Street in Manhattan where PO Cekic, PO Rusi, and PO Jean had stopped and detained § 87(2)(b) (**Board Review 04**). Sgt. Travis took over the scene as a higher-ranking officer. Sgt. Travis planned to bring § 87(2)(b) and his vehicle back to the 32nd Precinct, where officers would conduct an inventory search and voucher § 87(2)(b) property for safekeeping. PO Rusi entered the vehicle to attempt to drive it, but determined that it was not in working order. Sgt. Travis decided not to have the vehicle towed due to the amount of time it sometimes takes for tow trucks to respond to a scene. Instead, he released it to § 87(2)(b) friend. Sgt. Travis told PO Rusi to conduct an inventory search of the vehicle on BWC to make sure that there were no valuables or cash left behind in the vehicle. Sgt. Travis was not looking for anything specific in the vehicle and wanted to ensure that no one could claim that officers had stolen anything from the vehicle. Sgt. Travis searched the rear driver’s side of the vehicle and the trunk, opening and checking all compartments. PO Rusi searched the front driver’s side and front passenger side of the vehicle. Sgt. Travis testified that he did not document the inventory search or make any entry in his memo book regarding the search.

Sgt. Travis’s BWC footage is consistent with his testimony and captures his involvement on the scene in its entirety (**Board Review 05**).

NYPD Patrol Guide Procedure No. 208-03 states that after an arrest has been effected, uniformed members of service should search the adjacent vicinity for weapons, evidence, and/or contraband (**Board Review 12**).

NYPD Patrol Guide Procedure No. 218-13 establishes that uniformed members of service must conduct an inventory search of automobiles that come into the custody of the NYPD (**Board Review 13**). When an officer conducts an inventory search, the officer must remove all valuables from the vehicle and invoice them separately.

People v. Gomez, 13 N.Y.3d 6, found that for an inventory search to be valid and lawful, it should

be conducted pursuant to an established procedure clearly limiting the conduct of individual officers (**Board Review 14**). Further, officers must make a meaningful inventory list of the contents of the accused's vehicle.

While Sgt. Travis testified that he conducted an inventory search of § 87(2)(b) vehicle on the scene, per *People v. Gomez* and the Patrol Guide, a valid inventory search requires that officers document the contents of a subject vehicle. As Sgt. Travis acknowledged that he did not document the inventory search, § 87(2)(g)

§ 87(2)(b) Additionally, Sgt. Travis's search of § 87(2)(b) vehicle extended far beyond the "adjacent vicinity" that an officer might search pursuant to § 87(2)(b) arrest. § 87(2)(g)

Allegation (K) Abuse of Authority: On September 29, 2022, in front of 201 West 145th Street in Manhattan, Police Officer Edgar Rusi failed to provide § 87(2)(b) with a business card.

PO Rusi testified to the CCRB that he did not remember if he gave a business card to § 87(2)(b) friend at the end of the incident on the scene (**Board Review 03**).

PO Cekic and PO Rusi's BWC footage does not capture either officer offering a business card to § 87(2)(b) friend (**Board Review 05**).

NYC Administrative Code 14-174 establishes that uniformed members of service are required to offer business cards following stops where an officer has § 87(2)(b) ized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter at will and which do not result in a summons or arrest (**Board Review 15**).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (**Board Review 17**).
- PO Cekic has been a member of service for 10 years and has been a subject in three additional CCRB complaints and eight allegations, none of which were substantiated (**Board Review 18**). PO Cekic's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- PO Rusi has been a member of service for seven years and has been a subject in two additional CCRB complaints and six allegations, none of which were substantiated (**Board Review 19**).
- § 87(2)(g)
Sgt. Travis has been a member of service for 18 years and has been a subject in nine additional CCRB complaints and 13 allegations, of which one was substantiated (**Board Review 20**):
 - **202107668** involved a substantiated allegation of Abuse of Authority – Vehicle Search against Sgt. Travis. The Board recommended Command Discipline A and the NYPD took no disciplinary action. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 6, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (**Board Review 21**).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad: 8

Investigator:	<u>Colin Lodewick</u>	<u>Inv. Colin Lodewick</u>	<u>09/01/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>09/04/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date